

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

September 11, 2009

Charles R. Fulbruge III  
Clerk

\_\_\_\_\_  
No. 08-40108

Conference Calendar  
\_\_\_\_\_

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ANGEL REYES-FIGUEROA,

Defendant-Appellant

\_\_\_\_\_  
Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 1:07-CR-614-ALL  
\_\_\_\_\_

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

Before JONES, Chief Judge, and JOLLY and DENNIS, Circuit Judges.

PER CURIAM:\*

Angel Reyes-Figueroa (Reyes) pleaded guilty to unlawfully attempting to enter the United States after deportation. After sentencing, Reyes appealed his sentence, specifically the eight-level aggravated felony enhancement based on an earlier conviction for unauthorized use of a motor vehicle (UUMV) under Texas law. Recognizing that circuit precedent foreclosed his argument, Reyes

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

moved for summary affirmance so that he could seek review in the Supreme Court. We granted the motion and affirmed the district court. *United States v. Reyes-Figueroa*, 282 F. App'x 220 (5th Cir. 2008). After Reyes petitioned for a writ of certiorari, the Supreme Court vacated our decision and remanded the case for consideration in light of *Chambers v. United States*, 129 S. Ct. 687 (2009). *Reyes-Figueroa v. United States*, 129 S.Ct. 998 (2009). Reyes has filed an unopposed motion to vacate his sentence and remand for resentencing. As the parties now agree, the district court committed a procedural error in sentencing Reyes, and we therefore vacate the sentence and remand for resentencing. *See United States v. Armendariz-Moreno*, \_\_\_ F.3d \_\_\_, 2009 WL 1653551 at \*1 (5th Cir. June 15, 2009).

Reyes's motion is GRANTED, the sentence is VACATED. and the case is REMANDED for further proceedings.